

HOUSE FINANCE COMMITTEE
March 14, 2017
3:29 p.m.

[3:29:53 PM](#)

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 3:29 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Taneeka Hansen, Staff, Representative Paul Seaton; Randall Hoffbeck, Commissioner, Department of Revenue; David Teal, Director, Legislative Finance Division; Chris Poag, General Counsel, Alaska Permanent Fund Corporation.

PRESENT VIA TELECONFERENCE

SUMMARY

HB 115 INCOME TAX; PFD CREDIT; PERM FUND INCOME

HB 115 was HEARD and HELD in committee for further consideration.

Co-Chair Foster indicated the committee would be taking up amendments on the Permanent Fund portion of HB 115. He invited Ms. Hansen to the table.

#hb115

HOUSE BILL NO. 115

"An Act relating to the permanent fund dividend; relating to the appropriation of certain amounts of the earnings reserve account; relating to the taxation of income of individuals; relating to a payment against the individual income tax from the permanent fund dividend disbursement; repealing tax credits applied against the tax on individuals under the Alaska Net Income Tax Act; and providing for an effective date."

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^AMENDMENTS: HB 115

3:31:10 PM

Vice-Chair Gara MOVED to ADOPT Amendment 1, 30-LS0125\E.20 (Nauman, 3/9/17):

Page 2, line 1 1:
Delete "4.75"
Insert "5.25"

Page 2, line 12:
Delete "excluding"
Insert "including"

Page 2, following line 18:
Insert a new bill section to read:
"* Sec. 4. AS 37.13.140(b), added by sec. 3 of this Act, is amended to read:
(b) The corporation shall determine the amount available for distribution each year. The amount available for distribution is five [5.25) percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "the

average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the 19 settlement of State v. Amerada Hess, et al., IJU-77-847 Civ. (Superior Court, First Judicial District)."

Renumber the following bill sections accordingly.

Page 2, line 23, following "ill":

Insert "principal of the fund, 0.25 percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles; in this paragraph, "average market value of the fund" has the meaning given in AS 37.13.140(b); ill"

Page 2, line 24:

Delete "income"
Insert "amount [INCOME]"

Page 2, line 25:

Delete "ill"
Insert "Q1"
Delete "income"
Insert "amount"

Page 10, line 18:

Delete "sec. 11"
Insert "sec. 12"

Page 10, line 19:

Delete "sec. 11"
Insert "sec. 12"

Page 10, line 27:

Delete "secs. 2 - 9" in both places
Insert "secs. 2, 3, and 5 - 10" in both places

Page 10, line 29:

Delete "Sections I - 9, 15, and 16"
Insert "Sections I - 3, 5 - I 0, 16, and 17"

Page 10, following line 30:

Insert a new bill section to read:

"* Sec. 19. Section 4 of this Act takes effect July 1, 2019."

Renumber the following bill section accordingly.

Page 10, line 31:

Delete "sec. 17"

Insert "secs. 18 and 19"

Representative Wilson OBJECTED.

Vice-Chair Gara spoke to the amendment. He explained that the amendment allowed for a higher dividend than previously and provided funds for state services in a way that would help to move the state forward. The committee had heard testimony from the Legislative Finance Division (LFD) and from the director of the Alaska Permanent Fund Corporation (APFC) that a draw of 5.25 percent of the value of the Permanent Fund (PF), which was in effect of about 4.79 percent, was a safe percentage draw. The amendment stipulated that the draw from the earnings reserve account (ERA) should be 5.25 percent for the first 2 years, and 5 percent after the 2-year mark. The bill reflected that 67 percent of the draw would go towards services and 33 percent would go towards paying the dividend. He mentioned that the following amendment would increase the dividend amount to \$1250 dividend. He would speak to Amendment 2 later.

Vice-Chair Gara explained the other part of the amendment, which would assist the state in catching up with inflation proofing the fund. There had been no inflation proofing of the PF for the previous 2 years. His amendment would add to the inflation-proofing portion of the bill. Currently, the bill indicated that once the earnings reached four times the distribution amount the excess amount would transfer into the principle of the fund. In addition the bill included .25 percent in the first year regardless of accumulating the four times amount for distribution. The amount would equal a little over \$100 million in the first year for inflation proofing. The portion of the bill that reflected the four times waterfall would begin immediately. He reiterated that .25 percent for inflation proofing would occur right away until the state reached the four times amount.

Representative Thompson expressed concerns about the draw of 5.25 percent. He thought the percentage was too high even though it was only for a period of 2 years. He thought a draw limit was imperative. He believed the legislature was heading in the wrong direction. He noted that inflation proofing the fund at a rate of \$120 million. He had spoken earlier about the state being behind by \$547 million for 2017. If inflation proofing for 2016 was added in the state was behind by \$550 million. He supposed \$120 million for inflation proofing was better than zero. However, the legislation would cause the state to fall further behind in inflation proofing the fund, thus, depleting the value of the fund as defined in statute. He did not like the amendment.

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Co-Chair Seaton referred to the .25 percent for inflation proofing. He reported that APFC recognized the quarter percent being a statutory way of assuring something was added for inflation proofing rather than waiting for the four times the distribution mechanism that might occur randomly at different times. The Alaska Permanent Fund Corporation testified that the year before last inflation proofing was only \$47 million, which was less than what was being proposed. On average inflation had been higher but inflation proofing would be made up with the four times the draw mechanism being proposed. The question was to do as other plans had relying only on the four times the draw provision which may or may not occur often or did the legislature want to have a combination. He supported the amendment due to an annual amount being contributed as well as the four times the draw provision making up a large amount to catch up inflation if it was necessary.

Representative Pruitt thought the committee was focusing too much on the four times the draw provision. He thought the committee should be focusing more on what was already in statute. He thought that what was currently in statute worked. The budget currently being debated removed a substantial amount of money from the ERA, which meant it would take a considerable amount of time to reach the four times draw. He thought the legislature was starting on a more difficult footing to reach the goal of the provision. He suggested .25 percent was a much smaller inflation-proofing amount. He thought the legislature was trying to

get around inflation proofing the fund. He preferred to get rid of the idea of the four times draw and return to inflation proofing as the state had been - inflation proofing every year. The truth was that if the legislature wanted to stay away from inflation proofing, it had the ability to do so based on the legislation in play. He suggested the legislature stick with what had been working.

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Representative Wilson referred to Section 3, page 2, line 11. She relayed that in the current bill the state would be taking a 4.75 Percent of Market Value (POMV), whereas, Amendment 1 would increase the percentage to 5.25 percent.

Co-Chair Seaton responded in the affirmative.

Representative Wilson clarified that the amendment would increase the percentage to 5.25 percent.

Co-Chair Seaton responded that the amendment would change the percentage to 5.25 percent for 2 years.

Representative Wilson asked if following the 2 years the percentage would drop to 5 percent indefinitely unless another legislature changed it in the future.

Co-Chair Seaton responded that the 5 percent would apply to FY 20 and beyond. He reported that it would be the first 5 years of the previous 6 years. It would turn out to be about .5 percent less than that amount because the fund would be growing. He continued that taking the 5-year average of the previous 5 years it equaled about 4.7 percent each year. He relayed that representatives from LFD and the Department of Revenue (DOR) were available for questions.

Representative Wilson wanted to understand where the state was at presently. Under current circumstances, the draw would be equal to 4.75 percent. The amendment would be increasing the draw to 5.25 percent for the first 2 years and 5 percent after that. The amendment would actually increase the draw. She understood the numbers would change depending on what was in the fund and what happened with the current operating budget. She was concerned that the amendment raised the draw amount substantially from what was currently in the bill.

Co-Chair Seaton responded that it would be a larger draw but not that much larger. He explained that .25 percent would equal \$120 million, which would be the inflation-proofing amount for the current year.

Representative Wilson asked for additional information regarding the percentages based on the value of the PF. She wanted to be able to understand the numbers more clearly.

Vice-Chair Gara explained that a draw of 5.25 percent of the value of the PF for the first years would essentially equal about 4.6 percent because the draw was 5.25 percent of the average of the average of 5 of the last 6 years. The effective rate was about 4.6 percent. The head of LFD as well as the director of APFC testified that it [5.25 percent] was a safe amount. The amount would be reduced after the first 2 years of the plan. The earnings reserve account would be expected to grow with that percentage of draw. The amendment would equal a draw from the ERA of about \$1.67 billion for public services and a dividend of slightly over \$1200, which he hoped to increase in another amendment.

Representative Wilson asked if the amendment with a draw of approximately \$1.68 billion and a Permanent Fund Dividend (PFD) of approximately \$1200 was based on taking \$4 billion out of the fund, or if it was based on the assumption that the \$4 billion remained in the fund.

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Co-Chair Seaton indicated in the current fiscal year the legislature would not be taking out \$4 billion. There would be a draw in FY 17 equal to \$1.6 billion and there would be a draw equal to the 5.25 percent reduced by the dividends that were paid in FY 17. In FY 18 and FY 19, there was only a single draw in each of the fiscal years. He referred to the charts in the amendment packet. The first chart was the status quo chart. The second chart reflected a draw percentage of 4.75, the Constitutional Budget Reserve (CBR), the ERA, and other items. The third chart represented the POMV draw of 5.25 percent as amended for FY 18 and FY 19 and 5 percent after that time with a flat budget. He highlighted that between the second and third year it was the dimension and the change from 4.75 percent to 5.25 percent and then down to 5 percent. He also pointed

out in the third chart the PF would be growing faster than inflation. It would start out in FY 18 at 100 percent of inflation and then it would grow to 102 percent to 103 percent all the way out through FY 26. He pointed to the blue box that indicated the percent of real value below the chart. Including inflation the PF was growing faster than inflation in the plan under consideration with the amendment included.

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TANEEKA HANSEN, STAFF, REPRESENTATIVE PAUL SEATON, pointed out that all of the charts had the draw year starting in FY 17, which was included in the budget. There was a FY 17 draw and an FY 18 draw. The charts should accurately reflect what was in the budget. She offered that LFD would have to speak to whether the dollar amounts were exact.

Vice-Chair Gara thought the answers he was going to give had been provided.

Co-Chair Foster recognized Representative Grenn had joined the meeting.

Representative Grenn referred to the PF chart on the right-hand side of the slide. He wondered whether the payout percentage for FY 19 should read 5.25 percent.

Co-Chair Seaton referred to the middle yellow chart that read "payout" on the third chart titled "HB 115 - POMV draw amended: 5.25 percent in FY 18 and FY 19, 5 percent after. Flat Budget." There was a POMV payout of 5 percent. In addition, a POMV override would be in place that would end after FY 18.

Representative Grenn clarified that it would end in FY 18.

Co-Chair Seaton responded affirmatively.

Representative Wilson was concerned with the new approach, as it had never been used before. She was unsure why the legislature would not use 4.5 percent to start with because there were so many unknowns. She opposed the amendment.

Representative Thompson reported that several times DOR had indicated a 5.25 percent draw was only safe if a draw limit accompanied it. Based on conversations in his office with

LFD, he thought the maximum amount that could be drawn was 4.7 percent or 4.71 percent.

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RANDALL HOFFBECK, COMMISSIONER, DEPARTMENT OF REVENUE, reported the department had testified that 5.25 percent was aggressive but do-able with a turndown of \$1.2 billion. The percentage would be reduced from 5.25 percent to 5 percent after 3 years, which seemed intuitively sufficient even though the department had not modeled 5 percent. He also noted that there would be a 3-year review to check for sustainability. If the percentage did not appear to be sustainable, a more suitable draw percentage would be brought back to the legislature for consideration.

Representative Wilson MAINTAINED her OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Gara, Grenn, Guttenberg, Kawasaki, Ortiz, Foster, Seaton

OPPOSED: Pruitt, Thompson, Tilton, Wilson

The MOTION to ADOPT Amendment 1 PASSED (7/4).

[3:52:54 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment 2, 30-LS0125\E.13 (Nauman, 2/27/17):

Page 10, line 15:

Delete all material and insert:

"• Sec.13.AS 37.13.145(c) is repealed July 1, 2017.

* Sec. 14. AS 43.05.085; AS 43.20.012(b), and 43.20.013 are repealed January 1, 2018.

* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to read:

FISCAL YEAR 2017. Notwithstanding another provision of law, the legislature may appropriate from the ERA for fiscal year 2017 the amount by which 5.25 percent of the average market value of the fund for fiscal years 2011, 2012, 2013, 2014, and 2015, computed annually for each fiscal year in accordance with generally accepted accounting principles, exceeds \$695,650,000. In this section, "average market value of the fund"

includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., IJU-77-847 Civ. (Superior Court, First Judicial District)."

Renumber the following bill sections accordingly.

Page 10, lines 27 - 28:

Delete "secs. 2 - 9 of this Act take effect after June 30, 2017, secs. 2 - 9 of this Act are retroactive to June 30"

Insert "sec. 15 of this Act takes effect after June 29, 2017, sec. 15 of this Act is retroactive to June 29"

Page 10, line 29:

Delete "Sections 1 - 9, 15, and 16"

Insert "Sections 15, 17, and 18"

Page 10, following line 30:

Insert a new bill section to read:

"* Sec. 19. Sections 1 - 9 and 13 of this Act take effect July 1, 2017."

Renumber the following bill section accordingly.

Page 10, line 31:

Delete "sec. I 7"

Insert "secs. 19 and 20"

Representative Wilson OBJECTED.

Co-Chair Seaton explained that the amendment related to the POMV draw in FY 17 of 5.25 percent of the market value for the last 5 years of the preceding 6 years minus the amount paid out already for the dividend in FY 17 (\$695,650). Since the dividend had already been taken out from the ERA and paid out in FY 17, it did not seem appropriate to draw the same amount from the ERA for a second time in the same year. The amendment conformed to changes in the budget. Currently a 5.25 percent draw existed in addition to the amount paid out in dividends. The amendment reversed the draw so that the legislature was not taking a double draw of the dividend amount in FY 17.

Representative Pruitt wondered if the amendment represented the legislation corresponding with the \$1.6 billion that was placed into the public education fund in the current budget.

Co-Chair Seaton confirmed that Representative Pruitt was correct.

Representative Guttenberg asked the commissioner how long the legislature had to account for and separate the Amerada Hess money outside of the PF in order to meet the required settlement conditions. He had been under the impression there was a period of time in which the conditions would lapse or conclude.

Commissioner Hoffbeck responded that if the state began to pay the dividend from the general fund (GF), as the current version of the bill envisioned, there would likely be no reason to keep the separation of the funds.

Representative Wilson commented that the bill was a retroactive bill, which meant that it would be as if the bill had been passed in the previous year.

Co-Chair Seaton responded that a draw could be made for FY 17. If the bill had been passed in the prior year, it would have been the same except that the draw would have been the full 5.25 percent. It might have been in addition to the payout of the dividend. He was not certain and called upon Commissioner Hoffbeck for clarification.

Commissioner Hoffbeck asked the representative to restate her question.

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Representative Wilson was confirming that the bill was essentially retroactive as if the bill had been passed the previous year. She wondered about the calculation.

Commissioner Hoffbeck explained that the department was comfortable with the FY 17 draw because it would be as if the Alaska Permanent Fund Protection Act (APFPA) had passed and the draws had been made in the prior year. It did not impact the long-term modeling that had been presented in the prior year. The dividend amount of \$1022 paid in the previous year was consistent with last year's PF bill,

which would have been \$1000. He was not sure if the dividend amount would be consistent with the current bill once all amendments were adopted.

Representative Wilson MAINTAINED her OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Grenn, Guttenberg, Kawasaki, Ortiz, Gara, Seaton, Foster

OPPOSED: Pruitt, Thompson, Tilton, Wilson

The MOTION to ADOPT Amendment 2 PASSED (7/4).

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AT EASE

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RECONVENED

Vice-Chair Gara MOVED to ADOPT Amendment 3, 30-LS0125\E.33 (Nauman, 3/11/17):

Page 3, line 6:
Delete "a new subsection"
Insert "new subsections"

Page 3, line 7, following "(b)":
Insert "and (f)"

Page 3, line 10, following "(b)":
Insert "and (f)"

Page 3, following line 10:
Insert a new subsection to read:
"(f) After the appropriations under (b) of this section, but before the appropriation under (e) of this section, for fiscal years 2018 and 2019, the legislature may appropriate from the earnings reserve account an additional amount, if necessary, to provide a dividend of at least \$1,250 for each individual."

Page 10, following line 8:
Insert a new bill section to read:
"* Sec. 12. AS 43.23.025 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, the amount of each permanent Fund Dividend for fiscal years 2018 and 2019 shall be \$1,250. If the amount of appropriations is not sufficient to provide the dividend amount in this subsection, the commissioner shall reduce the dividend amount under this subsection by an equal amount for each eligible individual."

Renumber the following bill sections accordingly.

Page 10, following line 15:

Insert a new bill section to read:

"* Sec. 15. AS 37.13.145(t) and AS 43.23.025(c) are repealed June 30, 2020."

Renumber the following bill sections accordingly.

Page 10, line 29:

Delete "1 5, and 16"

Insert "12, 14, 15, 17, and 18"

Page 10, line 31:

Delete "sec. I 7"

Insert "sec. 19"

Representative Wilson OBJECTED.

Co-Chair Seaton asked that he be added as a co-sponsor of the amendment.

Co-Chair Foster asked that he be added as a co-sponsor to the amendment.

Vice-Chair Gara explained that Amendment 3 incorporated a minimum dividend of at least \$1250 the first 2 years regardless of the formula. The projected formula would be close to the \$1250 amount. The Senate's plan specified a dividend of \$1000 and the current minority leader's bill from the previous year reflected a dividend of \$1000. However, he reported hearing from members of the public that they would like a higher dividend, which he thought was affordable. He referred to page 6 of the charts attached to Amendment 1. They showed the balance of revenues to be used for schools and public services at about \$1.66 billion the first year up to more than \$2 billion by FY 25. It was projected that the numbers would rise with a dividend of \$1250 guaranteed for the first 2

years. He hoped members could support a higher dividend amount.

Representative Thompson relayed that the amendment was for only 2 years. He wondered after 2 years if the calculation for the PFD would return to the statutory formula where the dividend could reach \$2500. He asked Vice-Chair Gara to explain what would happen after 2 years.

Vice-Chair Gara directed the committee's attention to the 6 Legislative Finance Division charts associated with Amendment 1. He highlighted that the amount of the dividend would be \$1250 for the first 2 years. After that, it was projected by LFD and the Permanent Fund Corporation that the dividend would rise slightly in later years with the current formula. He relayed the payouts: 33 percent of the POMV payout would go towards dividends and 67 percent of the POMV payout would be used for services. The state would no longer use the current formula, which jumped up and down, but would use the new POMV formula.

Representative Wilson noted that affordability was mentioned but thought it was in the context of government rather than the people. She could only speak about what the constituents in her district wanted - they did not want more but wanted what belonged to them. Her constituents voiced concerns about the calculation of the dividend and about how it could change without their input. She did not feel the amount was enough. It was not up to the government to decide how much it paid the people of Alaska. There were several moving parts to the legislation. It was difficult to take the numbers off the chart. She appreciated the idea of giving more to the people. However, she thought the bill was intended for the purpose of government getting what it wanted in spite of what it might do to individuals as well as the economy of the state.

[4:05:53 PM](#)

Representative Thompson reflected back to the origination of the PF. In 1979, Governor Hammond sent memos to the Senate indicating he wanted 50 percent of the earnings to be used to operate government, 25 percent would go towards capital projects, and the remaining 25 percent would go to paying Permanent Fund Dividends to the people of Alaska. The current and future legislators would be faced with a monumental problem of deferred maintenance. He believed

that the state needed to put about \$100 million per year into deferred maintenance, although he did not think the state would be able to catch up. He thought the state would be heading in the wrong direction unless it addressed a major future problem.

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Representative Grenn reflected on Amendment 3. He asked what the projected amount would be in FY 18 and FY 19 prior to Amendment 3.

Vice-Chair Gara asked if Representative Grenn was asking about the dividend or the payout.

Representative Grenn confirmed he was speaking of the payout.

Vice-Chair Gara referred to page 4 and page 6 of the LFD charts. He pointed out that Amendment 3 resulted in a payout of \$1.66 billion for public services and a \$1250 PFD in year 1. In the second year, the payout would be \$1.683 billion with a slightly smaller dividend. He added that without the amendment the payout would be \$1.708 billion. By year 3, it was the same.

Co-Chair Seaton noted that there was a table in the far bottom right corner of the charts that showed the amount that would go into the GF and the amount that would be paid to dividends.

Representative Grenn asked for the dividend amount projected on chart 4 and chart 6 for FY 18 and FY 19.

Vice-Chair Gara responded that without the minimum guaranteed \$1250 dividend, it was projected to be around \$1220 or \$1215. The amount would be variable depending on returns. The amendment would set the dividend at \$1250.

Ms. Hansen noted that the way the amendment was drafted and the way it was shown on the chart was slightly different. She had not received the amendment in time to get an updated chart. The distribution would remain 67/33 and the amount going to the GF would remain the same with or without the dividend floor. The amendment specified appropriating any additional necessary funds to the dividend for the first 2 years. It was a nominal difference

between what it would be with or without the floor. The amount would not come directly out of what was going into the GF.

Representative Pruitt commented that the dividend would be about \$100 higher than with keeping the current status quo for the following 2 years. He was trying to thumb through the various charts. It appeared that it would increase slightly through FY 26. He also asked how the maker of the amendment came up with the dividend of \$1250 for 2 years. He wanted to understand the maker's thinking versus going to a different percentage.

Vice-Chair Gara responded that under any budget proposal without the amendment the state would have to exhaust what was left in the savings account, dip into the ERA, and then there would no longer be funds for a dividend. In 2 years, the savings account would be drained and spending would ensue from the ERA, which he thought was haphazard and jeopardized the dividend. He wanted to see a larger dividend than the previous year, while generating enough money to extend the savings account. He relayed that it was a choice of either using the legal earnings from the ERA or exhausting the savings account. He did not feel either were great choices. He suggested there were other bills he would like to see passed, that would raise additional revenues. He reiterated that if only the current bill passed, the state would have only two choices: to exhaust the state's savings account, or to jeopardize the ERA. He asserted that the amendment provision ensured protecting the ERA, the PF principle, and extending the ERA and the CBR. The state was trying not to cannibalize these funds until there was nothing left while creating the largest dividend possible. He thought the amendment created the right balance. He had once wanted a \$2000 dividend forever. However, he realized that there would not be any money left over for schools, the university, or other things he believed in. He wished the legislature had adopted a fiscal plan much earlier.

Representative Ortiz returned to the question regarding the minimum PFD at \$1250 for the first 2 years and how it would not impact the amount of money available to go to the GF. He wondered where the money would come from to maintain the PFD amount.

Ms. Hansen responded that the way that the amendment was currently written the money would come from the ERA. There

could be a decision to appropriate it from a different account. She explained that it was a bit complicated to amend the distribution percentage of 67/33 for only 2 years. For drafting purposes, it was cleaner to keep the distribution amount and if there was a need for an additional amount (if 33 percent did not equate to \$1250) then it was easier to have a direct appropriation.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 3 was ADOPTED.

[4:16:43 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment 4, 30-LS0125\E.3 (Nauman, 2/16/17):

Page 3, lines 22 - 28:
Delete all material.

Renumber the following bill sections accordingly.

Page 10, line 18:
Delete "sec. 11"
Insert "sec. 10"

Page 10, line 19:
Delete "sec. 11"
Insert "sec. 10"

Page 10, line 27:
Delete "secs. 2 - 9" in both places
Insert "secs. 2 - 8" in both places

Page 10, line 29:
Delete "Sections 1 - 9, 15, and 16"
Insert "Sections 1 - 8, 14, and 15"

Page 10, line 31:
Delete "sec. 17"
Insert "sec. 16"

Representative Wilson OBJECTED.

Co-Chair Seaton explained that the amendment removed Section 9 from the bill. There were language changes being made to AS 37.14.031(c). The Alaska Mental Health Trust

Fund defined the net income for calculating the mental health trust fund's net income. The change to AS 37.14.031(c) was not necessary because the net income remained defined in AS 37.13.140, which the statute currently referenced. Therefore, it did not need to be redefined and Section 9 was unnecessary.

Representative Pruitt commented that the representative had just read Section 8. He was correct that Section 9 was indicated on the amendment. However, Section 9 did not deal with the mental health trust. He asked for clarification.

Ms. Hansen informed the committee that the section dealt with the Alaska Mental Health Trust. The mental health trust fund was managed by the APFC. At the end of the year when the corporation determined its net income, it also used the same method of determining the net income for the mental health trust fund. If the legislature had deleted or changed the definition of net income under AS 37.13.140, a definition would have been necessary for the mental health trust fund. The definition was being kept the same in statute.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 4 was ADOPTED.

[4:19:23 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment 5, 30-LS0125\E.5 (Nauman, 2/21/17).

Amendment 5 (30-LS0125\E.5)

Page 1, line 1, following "dividend;":
Insert "relating to the permanent fund;"

Page 1, following line 9:

Insert new bill sections to read:

"*Sec. 2. AS 37.05.550(b) is amended to read:

(b) The legislature may appropriate to the fund money received by the state as Alaska marine highway system program receipts or from a settlement or final judicial determination of the Dinkum Sands case (United States v. Alaska) and the North Slope royalty case (State v. Amerada Hess, et al.) and not deposited into the Alaska permanent fund under AS 37.13.010(a)

[AS 37.13.010(a)(1) OR (2)] or into the public 2 school trust fund under AS 37.14.150.

*Sec. 3. AS 37.13.010(a) is amended to read:

(a) Under art. IX, sec. 15, of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state from mineral leases [ISSUED ON OR BEFORE DECEMBER 1, 1979], and 25 percent of all bonuses received by the state from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980]; and

(2) [50 PERCENT OF ALL MINERAL LEASE RENTALS, ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15, 1980]; and

(3) any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund."

Representative Thompson and Representative Wilson OBJECTED.

Co-Chair Seaton spoke to the amendment. He reported that the amendment deleted a royalty currently going to the principle of the PF above the constitutionally required 25 percent. The extra royalty revenue would remain in the GF for state use. The provision was adopted in the budget for FY 18. The amendment changed the statutory reference to be the same.

Representative Thompson spoke to his objection. He indicated that the royalties going to the PF principle would be reduced by about \$55 million. The amount would be available for spending instead of placing it into the principle of the PF so that it could grow ultimately

increasing the amount of money going into the ERA in the future. It would increase the amount of money available for PFDs. He opposed the amendment because he would rather see the money placed where it could earn money for the future.

Representative Pruitt agreed with Representative Thompson. He disagreed with putting the provision in the budget. He wanted to ensure the long-term viability of the fund. The money had been going into the fund since 1980. He expected that if the legislature voted in favor of the amendment, it would be much more difficult to reverse down the road. He opposed the amendment. He suggested that spending the money in the near-term meant losing the earnings potential of the \$55 million in perpetuity of the PF. Based on the earnings in the current year it would translate to around \$5 million in one year. If the amount was compounded over the long-term, it would equal a sizable amount. He opposed the action.

Representative Wilson thought the legislature should be doing more to protect the corpus of the PF. The amendment would be doing less to protect the corpus. She asserted that the amendment was taking "permanent" out of the PF.

Co-Chair Seaton clarified that the additional revenue of 25 percent on new leases was due to higher royalty amounts on older leases. However, under the current production tax structure and, in particular, the gross value reduction (GVR), the state was not receiving additional total revenue from new leases. There was an additional 10 percent GVR for any lease above 12.5 percent. He suggested the state had used the tax structure to override the value it would receive from higher royalty amounts. Unfortunately, with the 20 percent GVR for new oil and the additional 10 percent GVR for any lease with a higher royalty amount, the state had circumvented its royalty. As a result the GF was receiving less money than the state would have otherwise received, which was why the amendment reduced the amount to what was constitutionally required and suggested 25 percent of net royalties.

Representative Thompson and Representative Wilson MAINTAINED their OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Guttenberg, Kawasaki, Ortiz, Gara, Foster, Seaton

OPPOSED: Pruitt, Thompson, Tilton, Wilson, Grenn

The MOTION to ADOPT Amendment 4 PASSED (6/5).

[4:26:13 PM](#)

AT EASE

[4:26:55 PM](#)

RECONVENED

Vice-Chair Gara indicated he would be rescinding action on Amendment 3 due to a typo.

Vice-Chair Gard MOVED to RESCIND action on Amendment 3.

There being NO OBJECTION, it was so ordered.

Vice-Chair Gara explained that Amendment 3 was written correctly on page 1, Line 16. The intent was to have at least a \$1250 dividend. The formula, if there were good stock returns, could result in an even larger dividend. However, the words "at least" were left out on Line 22. If the formula provided for a larger dividend, the dividend would still only equal \$1250.

Vice-Chair Gara MOVED to ADOPT Amendment 3.

Representative Wilson OBJECTED.

Vice-Chair Gara MOVED to AMEND Amendment 3.

Vice-Chair Gara wanted to insert the words "at least" on Page 1, line 22 before the number \$1250. If the formula provided for a larger dividend, then the dividend amount would be larger.

There being NO OBJECTION, the amendment to amend Amendment 3 was ADOPTED.

Representative Wilson WITHDREW her OBJECTION to Amendment 3.

Amendment 3 as amended was ADOPTED.

[4:29:23 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment 6, 30-LS0125\E.6
(Nauman, 2/21/17):

Page 10, following line 8:

Insert a new bill section to read:

Sec. 12. AS 43 .23.055 is amended to read:

Sec. 43.23.055. Duties of the department. The department shall

(1) annually pay permanent fund dividends from the dividend fund without further appropriation;

(2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine the number of eligible applicants by October 1 of the year for which the dividend is declared and pay the dividends by December 31 of that year;

(3) adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;

(5) use a list of individuals ineligible for a dividend under AS 43.23.005(d) provided annually by the Department of Corrections and the Department of Public Safety to determine the number and identity of those individuals;

(6) adopt regulations that are necessary to implement AS 43 .23.005(d);

(7) adopt regulations that establish procedures for the parent, guardian, or other authorized representative of a disabled individual to apply for prior year 4 permanent fund dividends not received by the disabled individual because no application was submitted on behalf of the individual;

(8) adopt regulations that establish procedures for an individual to apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not collected within two years after the date of its issuance; however, the department may not establish a time limit within which an application to have a disbursement reissued must be filed;

(9) provide any information, upon request, contained in permanent fund dividend records to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law; if the information is contained in an electronic database, the department shall provide the requesting agency with either

(A) access to the data base; or

(B) a copy of the information in the data base and a statement certifying its contents;

(10) establish a fraud investigation unit for the purpose of assisting the

(A) Department of Law in the prosecution of individuals who apply for or obtain a permanent fund dividend in violation of a provision in AS 11, by detecting and investigating those crimes; and

(B) commissioner to detect and investigate the claiming or paying of permanent fund dividends that should not have been claimed by or paid to an individual and to impose the penalties and enforcement provisions under AS 43.23.035.'

Renumber the following bill sections accordingly.

Page 10, line 29:

Delete "15, and 16"

Insert "12, 16, and 17"

Page 10, line 31:

Delete "sec 17"

Insert "sec. 18"

Representative Wilson OBJECTED.

Co-Chair Seaton spoke to the amendment. It clarified that the dividend could be paid from the dividend fund without further appropriation. Under current statute, money was

appropriated into the dividend fund but it was not clear how the money moved from the dividend fund.

Representative Pruitt asked if the amendment allowed the dividend to be paid out automatically if no action to appropriate was taken by the legislature.

Co-Chair Seaton responded affirmatively.

Ms. Hansen confirmed Co-Chair Seaton was correct. She added that the language specifying how the money moved from the ERA to the dividend fund still indicated that the legislature should appropriate 33 percent of the draw. The language clarified that once the money was in the dividend fund it did not need to be appropriated out; it would happen automatically.

Representative Pruitt asked if it was a change from what the state was currently doing. He asked why the language was needed.

Ms. Hansen explained her understanding was the state had always just appropriated the funds under the assumption that the legislature was directed to do so. However, the statute had not been clear. She added that LFD had flagged the same language in the past and suggested bringing them to the table for further clarification.

Commissioner Hoffbeck asked Representative Pruitt to repeat his question.

Representative Pruitt asked about the need for the language. He wondered why the committee was adding 3 words.

Commissioner Hoffbeck responded that in the past once the money was appropriated in the dividend fund, the money was used to pay dividends without further appropriation. He suggested having LFD respond.

Co-Chair Foster invited Mr. Teal to the table.

DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, explained the dividends had flowed out of the dividend fund in the past. However, most statutes that created funds would outline whether further appropriations were necessary. He suggested that the current statute did not contain clarifying language. The state had always just

assumed that the money would be paid out. The amendment simply clarified what had happened in the past and allowed it to flow out without appropriation in the future.

Representative Pruitt surmised that the amendment eliminated ambiguity.

Mr. Teal responded, "Right."

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 6 was ADOPTED.

[4:34:35 PM](#)

Co-Chair Seaton MOVED to ADOPT Amendment 7, 30-LS0125\E.19 (Nauman, 3/9/17):

Page 3, lines 7 - 10:

Delete all material and insert:

"(e) Each year that the balance of the earnings reserve account exceeds four times the amount calculated for appropriation under (b) of this section, after the appropriations under (b) of this section, the legislature may appropriate from the earnings reserve account to the principal of the permanent fund the lesser of the

(1) amount by which the balance of the earnings reserve account exceeds four times the amount calculated for appropriation under (b) of this section; or

(2) cumulative amount of inflation on the principal of the fund between the current fiscal year and June 30, 2015, less amounts transferred after June 30, 2015, to the fund to offset the effect of inflation on the principal of the fund."

Representative Wilson OBJECTED.

Co-Chair Seaton reported that the new subsection AS 37.13.145(e) stated that when the ERA exceeded four times the annual draw calculated under AS 37.13.145(b) the excess over the amount would be appropriated into the principle of the fund. The amendment limited the transfer from the ERA to the principle to the lessor of the excess available or

the cumulative total inflation since June 30, 2015 minus any inflation proofing already transferred.

Representative Pruitt preferred if the legislature did something every year. However, recognizing that was not the direction of the committee, he agreed the legislature needed to do something. He cautioned future legislatures that the provision could easily be manipulated. The legislature could appropriate money into the CBR, into the SBR, or various other state funds. The legislature could use mechanisms every year to prevent it from actually happening. There was an intent to inflation proof the fund. He did not want to do anything to get in the way of doing so. He spoke in cautious support of the amendment.

Vice-Chair Gara commented there had been a lot of conflict in the legislature. He suggested that at some point legislators needed to reach common ground. He could not speak for all 60 members of the legislature. However, he saw common ground regarding the current provision in both houses and in both parties. He thought the legislature had to make a promise to the Permanent Fund to take the necessary measures to inflation proof the fund. The amendment, which he would be supporting, seemed to be a mechanism that had generated a fair amount of support from members of both parties.

[4:37:51 PM](#)

Representative Ortiz asked how the committee arrived at 4 times the annual draw as opposed to 3 or 5 times.

Co-Chair Seaton responded that the amount had to be enough to avoid depleting the ERA. There had to be enough volume in the ERA to account for volatility in years when returns were low. The amount equal to 4 times the draw was determined to be an adequate amount. After taking out the 5.25 percent draw and accruing, 4 times the draw then the excess could be used for additional inflation proofing. The legislature also built in .25 percent (\$120 million per year) for inflation proofing. The intention of the legislature was not to over-inflation proof, which was why the date of June 30th was included as the last time the legislature inflation proofed. It was possible once the 4 times the draw amount was reached that there would be excess funds to reconstitute the CBR. The amendment ensured

that the state caught up with inflation and that the formula worked at both high and low ends.

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Representative Thompson observed that the amendment placed no additional money into the corpus once the state caught up with inflation. He asked why. He wondered what was wrong with more money going into the corpus of the fund. The legislature had already decreased the royalties. He did not see a problem with continuing to have excess flow into the fund, which would make more money available in the future.

Co-Chair Seaton explained that he was talking about inflation proofing. There was nothing preventing the legislature from placing additional money into the corpus. He mentioned the legislature adding \$3 billion into the Public Employee Retirement System and the Teachers Retirement System a few years prior. He thought to include language that stipulated putting any excess funds into the corpus would limit future legislatures. The amendment would ensure that that the state was caught up 100 percent with inflation proofing the fund. It would be up to the legislature at the time to determine what to do with the excess.

Vice-Chair Gara agreed with Representative Thompson that if the legislature approved the plan, there would still not be enough money for a capital budget. He did not think it generated that much money. As the member from Fairbanks noted the state was way behind on deferred maintenance. He had heard estimates for the university's deferred maintenance of about \$1 billion. The state was no longer building energy projects, renewable projects, or upgrading diesel power in rural Alaska. The excess would allow the state to catch up with deferred maintenance and other things that had been placed on hold. He thought the amount of 4 times the draw made sense because the earnings reserve of the PF went up and down. Even with a good stock market year, if the PF did not cash in its stocks, no money went into the ERA. There had been years where there was a minus 1500 percent change in the earnings of the PF. Even with a large PF, the dividend had been around \$900 the previous few years. He thought the amount of 4 times the draw would ensure that there was about \$10.5 billion or \$11 billion in the ERA. There would be cushion room in case there were years of poor earnings.

Representative Wilson noted that her party affiliation had less to do with the decisions that she was making. She was making the right decisions for her constituents no matter what party she represented and no matter the party affiliation of her constituents. She requested that members discontinue referring to other members' party affiliation as if it had more to do with the decision legislators were making. She thought it was inappropriate. She wanted people to know that it was about judging the legislation and amendments before the committee. She asked that the references halt.

Representative Pruitt appreciated Representative Thompson's comments about the words, "lessor of the." they made a substantial shift in his view of the amendment. He asserted that the language had the potential to severely water down the intent. He thought he had heard that the legislature wanted to make sure it had the ability to fund above and beyond the POMV draw whether for capital projects or deferred maintenance. He thought the intent was to keep a confined POMV amount. He believed it would be better to protect the money from the legislature by placing it into the corpus. He was uncertain if he would offer to amend the amendment to remove the three words, "lessor of the." He argued that it was a large change from what had been discussed over the last year and a half. He thought there should be further discussion on the issue.

[4:48:34 PM](#)

Representative Wilson asked what the difference (in terms of dollars) would be if the language stated "higher of the" rather than "lessor of the."

Ms. Hansen responded that it would be difficult to speak to her question because it would depend on returns each year. If the language changed to "greater of" the state would potentially dip into the cushion created with the amount of 4 times the draw. If the language stipulated the amount in excess of 4 times the draw, then the 4 times would remain in the ERA for a cushion for bad years. Anything extra would go into the principle. If the term "lessor of" 4 times the draw or "the amount necessary for inflation proofing" was used, the state could still transfer the excess. She provided an example of the use of the term "greater of." If the state did not inflation proof for 5

years and the amount in excess of the draw was only \$100 million, the state would have to dip into its cushion. She suggested LFD could perhaps speak to the probability of the particular wording being triggered in the following few years.

[4:50:46 PM](#)

Representative Wilson wondered if the alternative would be to change the amount through an appropriation if the legislature thought the amount was too low.

Ms. Hansen responded that it was always an option of the legislature. She was unclear about the representative's comment about the legislature thinking the amount was too low.

Representative Wilson remarked that the "lessor of" indicated doing the least that needed to be done but was not what was necessarily best for the state.

Ms. Hansen explained that the language meant that the state would get up to the full value of any inflation proofing that was missed as long as the value was in the amount above the cushion.

Co-Chair Seaton provided an example of the state having \$50 million over the 4 times amount of the draw. If the amendment specified the greater amount and there was \$3 billion of inflation proofing to catch up the statute would require the legislature to wipe out the 4 times amount because the state would have to have the greater amount of accumulated inflation or the amount in excess. It would be the greater amount and the state would only have \$50 million over the 4 times amount. However, the state would dip \$2 billion into the 4 times amount leaving less than the 4 times amount available for future volatility and conservative management which was why the amendment used "lessor of." If the amount of inflation proofing was available over the 4 times amount the state would catch it up 100 percent.

Representative Guttenberg liked that the amendment established a set of rules. He asked about the intent of Line 11 of the amendment. He asked if it included the interest that the state would have accumulated had it inflation proofed the fund every year.

Co-Chair Seaton responded that the intent of the amendment was that if the state did not inflation proof the fund \$200 million 3 years previously, it would be the effect of having not inflation proofed the fund. The amendment would recapture all of the earnings as if the state had inflation proofed every year.

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Vice-Chair Gara thought the amendment mimicked the current rule, which was to inflation proof up to the amount needed to inflation proof the PF. In a year where the state had a significant amount of excess money, additional money could be placed in the fund. The amendment specified that once the amount equaled 4 times the amount of the draw, then the amount needed for inflation proofing would be placed in the fund. It was not mandatory in current law, nor was it mandatory under the proposed language to put in more money. In statute, it would specify that the amount placed in the fund would be equal to the amount needed for inflation proofing.

Representative Pruitt appreciated the committee facilitating the conversation. He referred to the .25 percent inflation proofing which was expected to be lower than actual inflation in the current year. If the state saved the amount of 4 times the draw, it would make-up for those times the state had not hit the number. Following the discussion, he better understood the intent of the amendment. The intent was for the legislature to maintain the inflation proofing mechanism into the future.

Representative Wilson WITHDREW her OBJECTION.

There being NO OBJECTION, Amendment 7 was ADOPTED.

[4:58:27 PM](#)

Co-Chair Seaton reported he would not be offering Amendment 8, 30-LS0125\E.1 (Nauman, 2/16/17), Amendment 9, 30-LS0125\E.2 (Nauman, 2/16/17), and Amendment 10, 30-LS0125\E.9 (Nauman, 2/23/17). He explained that they were technical amendments that were incorporated into Amendment 1.

Co-Chair Foster announced that Co-Chair Seaton would not be offering Amendments 8, 9, and 10.

Representative Pruitt MOVED to ADOPT Amendment 11, 30-LS0125\E.34 (Nauman, 3/11/17):

Page 1, line 1, following "dividend;":

Insert "relating to procurement by the Alaska Permanent Fund Corporation;"

Page 1, following line 9:

Insert new bill sections to read:

** Sec. 2. AS 36.30.015 is amended by adding a new subsection to read:

(1) The board of trustees of the Alaska Permanent Fund Corporation shall adopt regulations to govern the procurement of supplies, services, and professional services. The regulations must be similar to the procedures described in this chapter and in regulations adopted under this chapter. Notwithstanding any other provisions of this subsection, the Alaska Permanent Fund Corporation shall comply with the five percent preference under AS 36.30.321(a) and the requirement that contracts for legal services be approved by the attorney general under (d) of this section.

* Sec. 3. AS 36.30.990(1) is amended to read:

(1) "agency"

(A) means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, the Alaska Veterans' Home, or other administrative unit of the executive branch of state government;

(B) does not include

- (i) the University of Alaska;
- (ii) the Alaska Railroad Corporation;
- (iii) the Alaska Housing Finance Corporation;
- (iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Corporation;

(vii) the Alaska Retirement Management Board;

(viii) the Alaska Seafood Marketing Institute;

(ix) the Alaska children's trust and the Alaska Children's Trust Board;

(x) the Alaska Industrial Development and Export Authority;

(xi) the Alaska Permanent Fund Corporation;"

Renumber the following bill sections accordingly.

Page 10, line 18:

Delete "sec. 11
Insert "sec. 13"

Page 10, line 19:

Delete "sec. 11"
Insert "sec. 13"

Page 10, line 22, following "REGULATIONS.":

Insert "(a)"

Page 10, following line 24:

Insert a new subsection to read:

"(b) The commissioner of revenue and the Alaska Permanent Fund Corporation may adopt regulations, policies, and procedures necessary to implement this Act. The regulations, policies, or procedures may not take effect before the effective date of the law implemented by the regulation, policy, or procedure."

Page 10, line 27:

Delete "secs. 2 - 9" in both places
Insert "secs. 4 - 11 "in both places

Page 10, line 29:

Delete "Sections 1 -9, 15, and 16"

Insert "Sections 1, 4 - 11, 17, and 18"

Page 10, line 31:

Delete "sec. 17"

Insert "sec. 19"

Co-Chair Seaton OBJECTED for discussion.

Representative Pruitt spoke to the amendment. He explained that over the previous two years there had been discussion about potentially needing to use the earnings reserves, which could be placed in the GF. There had been a need for APFC to manage and bring about the greatest return. Currently, the corporation was restricted because of the procurement code. He had asked Ms. Rodell if she felt it was necessary for the corporation to be placed outside of the state procurement code like other state entities such as Alaska Industrial Development and Export Authority (AIDEA), Alaska Seafood Marketing Institute (ASMI), and the Aerospace Corporation. Presently, in order for the Alaska Permanent Fund Corporation to contract with a consultant, the director would have to go through the procurement process. If she needed to make an immediate decision for the corporation regarding an investment, by the time the procurement process was completed an investment opportunity might be missed.

Co-Chair Seaton relayed that there was a board member from APFC in the room. He suggested that that person come to the table.

Commissioner Hoffbeck was also a board member of the APFC. He confirmed that the concern had to do with being able to respond to opportunities for investments that were time sensitive. Stricter procurement regulations could lead to missed opportunities. The Alaska Permanent Fund Corporation and the board of trustees had made the request for several years. It had been in a bill that was introduced in the previous year but was stripped out. The administration had not included it in the bill in the current year because of wanting to focus strictly on the PF. However, the administration believed APFC should have the tool.

[5:03:35 PM](#)

Vice-Chair Gara pointed to line 11. He commented that the state provided for a local preference in state agency spending by allowing a vendor to charge 5 percent more than a competitor. He wondered if the APFC was required to comply with the 5 percent preference. He wondered if it met the APFC goal of providing the state the maximum investment returns - hiring someone that charged 5 percent more.

Commissioner Hoffbeck responded he would have to think about the legislator's question. The intent was for an investment to benefit the state. He was uncertain that the circumstances would be such that the corporation would be looking at multiple vendors and one getting a 5 percent preference over another. More importantly, the corporation could quickly select a vendor and move on. The attorney from APFC could perhaps provide a more detailed answer.

Vice-Chair Gara was missing something. He relayed that the commissioner had indicated that the corporation wanted to have the ability to do things more nimbly and quickly. He referenced Section 2, which stipulated the PF would comply with a 5 percent preference. He wondered about potential impacts of using the words, "shall comply." He wondered about the impacts of having to hire someone who charged 5 percent more for investment services when trying to maximize the returns on the PF.

Commissioner Hoffbeck could not think of a situation where the state would have competing fund managers performing the exact same work where the 5 percent would come into play. The language was developed by the PF, adopted by the Senate Finance Committee the previous year, and included in the bill. He suggested directing the question to APFC for a more detailed answer.

CHRIS POAG, GENERAL COUNSEL, ALASKA PERMANENT FUND CORPORATION, replied that if the state scored 2 proposals, one of them being experience and one of them being cost, one of them being from in state and one from out-of-state, the in-state Alaska bidder would receive a 5 percent scoring preference. If they scored equally the same, the in-state Alaska bidder would succeed and issue a notice for intent to award. He relayed that APFC was one of the agencies that requested waivers from the Alaska preference requirement because most of the services and goods the corporation procured were not available in Alaska. The

corporation would have to deal with the issues of waivers and requests for alternative procurements when it asked for authorization to adopt its own procurement code.

Vice-Chair Gara asked if the 5 percent preference was a scoring preference rather than a 5 percent cost to the PF.

Mr. Poag believed it was a scoring preference. He noted that when the corporation had drafted the language a few years prior it wanted to follow the model that other corporations had pursued. Other corporations had also used the 5 percent preference. It was clearly a policy call by the legislature. If the legislature thought costs should be the driving factor above all other factors, then the provision could be removed and the highest scoring entity would be chosen.

[5:09:20 PM](#)

Vice-Chair Gara was more comfortable with a 5 percent scoring preference rather than a 5 percent additional cost.

Mr. Poag would look further at the statutory site.

Co-Chair Seaton pointed out that it seemed like the bill was allowing for the procurement of supplies and other things as well as acquiring services of professional consultants. He thought the corporation would be able to set its entire panoply of procurements, which might vary between supplies and professional services.

Vice-Chair Gara wanted to support the amendment, but he wanted to make sure he understood it. He asked if the corporation had to adopt regulations that encompassed services along with the 5 percent preference. He thought the corporation would have to comply with services as well. He also wanted to confirm that there was a 5 percent scoring preference as opposed to a 5 percent additional cost preference. He suggested that it was just a service preference. An example of services was the use of an investment company in Anchorage, McKinley Capital. In the past, the company had contracted with APFC. He wanted to know if they were receiving a 5 percent cost preference or a 5 percent scoring preference.

Mr. Poag responded that there were 2 parts to Vice-Chair Gara's question. He referenced statute 36.33.21(a). He explained that cost was one of the items that was scored.

The score attributed to cost received a 5 percent preference. Often costs could be 20 percent or more of the scoring criteria. Therefore, the one criterial would get a 5 percent preference, which would give a benefit to the pricing of an Alaska bidder under the statute. It was not a 5 percent price bump. He spoke to Vice-Chair Gara's reference to McKinley Capital. He noted that it was only for services the corporation procured to help the corporation with investment transactions. The procurement did not apply to the corporation when it made investments. It would not make sense to apply it to APFC. The corporation chose managers that were best suited to fill the mandate with the best price and track record. He did not believe there was a concern with the particular bidder the representative mentioned. He reiterated that a 5 percent scoring preference applied to cost criteria.

[5:12:30 PM](#)

Representative Guttenberg assumed the corporation had a portfolio of fund managers and investment brokers. He asked Mr. Poag provide an example of the procurement code hindering the corporation from the ability to achieve the best for the PF.

Mr. Poag could not put his finger on a specific example where the corporation lost out on an investment opportunity due to the state's procurement code. He clarified that the standard timeline to give notice for public procurement under the state's procurement code was 21 days. Once the corporation made its selection there had to be a 10-day award period. Some of the investments came to the corporation on a shortened timeframe. If the corporation needed to procure a consultant to help evaluate the transaction, there would be an issue with timing. The goal of the amendment was not to avoid using a procurement process. The goal was to draft a procurement process that was tailored to the function of the corporation. The Alaska Legislature created the PF with a single myopic vision, which was to invest and manage the assets of the fund. However, the procurement code that applied to the corporation (the state statute, state regulations, and the state administrative manual) was a one-size-fits-all code. It had caused problems for the corporation in the past. The corporation was also one of the agencies that requested alternative procurement more than other agencies because most of the goods and services the corporation was

procuring did not fit neatly within the normal categories. He was unable to identify a specific investment the corporation had lost. However, as an example, in the previous day the corporation had made a decision to consider an investment, which was supposed to close at the end of the month. Sometimes investments took place within a shortened timeframe. In his specific example, the corporation did not need the help of a vendor to evaluate the investment. However, the need occurred from time-to-time. He reported that the ARM Board had over 10 pages in the regulations. The corporation would use a similar model to adopt a regulation packet substantially similar to the state's procurement code, but tailored to meet the corporation's need.

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Representative Kawasaki asked if APFC was currently exempt from the procurement code as it pertained to acquiring income producing assets, investments, and investment authority.

Mr. Poag referenced AS 36.30.850.15. He read from the statute:

(15) a contract that is a delegation, in whole or in part, of investment powers or fiduciary duties of
(A) the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13

Mr. Poag confirmed that the Board of Trustees of APFC was exempt from the procurement code. When the corporation made investment decisions and needed the help of a fiduciary or delegated authority to an outside manager, it was exempt from the procurement code.

Representative Kawasaki was looking at APFC's suggested procurement delegation regulation changes. The staff of APFC recommended that the corporation create its own procurement processes. He thought a corresponding statute would be necessary to change the process completely. He asked if the statute change was necessary.

Mr. Poag was not sure about Representative Kawasaki's question concerning referencing a statute. The amendment identified APFC as one of the agencies that had the authority not to comply with the standard state procurement

code, but to adopt a code substantially similar to the state procurement code. The Alaska Permanent Fund Corporation was asking to be added to the list of agencies that were exempt from the state's procurement code. The amendment included language that required the APFC to adopt by regulation of a code substantially similar to the state procurement code.

Representative Kawasaki was unsure if he liked the amendment. The committee had just had a debate about another corporation, the Alaska Seafood Marketing Institute (ASMI), which was also exempt from the state procurement code. He reported that ASMI presently employed 7 people out-of-state, which he thought was a result of the entity operating outside of the state procurement code. He did not think it was appropriate for the change to be in the bill at the current time.

Co-Chair Seaton WITHDREW his OBJECTION.

There being NO OBJECTION, Amendment 11 was ADOPTED.

Co-Chair Foster indicated the committee would be adjourning, but the remaining amendments for HB 115 would be heard, as well as HB 31, on the following day at 1:30 p.m.

ADJOURNMENT

[5:18:51 PM](#)

The meeting was adjourned at 5:18 p.m.